

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHONG HAO SU,

Plaintiff

v.

C-1-07-903

CITY GENERAL POLICE OFFICE,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 29), plaintiff's Motion to Open the Case and Extend Time for Other Case (doc. no. 31) which this Court construes as plaintiff's objections. The Magistrate Judge concluded that plaintiff has engaged in a clear pattern of delay and therefore recommended that plaintiff's Complaint (doc. no. 6) be dismissed without prejudice and this case be closed.

Plaintiff objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law.

REPORT AND RECOMMENDATION

Plaintiff filed his Complaint (Doc. 6) in this case on November 15, 2007, more than 120 days ago. The record, however, contains no indication that the named Defendant has waived service of process or that Plaintiff has served the named Defendant with a summons or with a copy of the Complaint.

On March 21, 2008, the Court ordered Plaintiff to show cause on or before April 10, 2008 why this case should not be dismissed for lack of prosecution based on Plaintiff's failure to serve Defendant with the summons and complaint. (Doc. 16.) On March 28, 2008, Plaintiff filed a motion for extension of time to respond to the Court's Order To Show Cause. (Doc. 18.) This Court granted Plaintiff's motion, giving him an additional 20 days, until April 30, 2008, to respond. (Doc 19.) On April 8, 2008, Plaintiff again requested an extension of time to respond to the Court's Order To Show Cause. (Doc. 20.) The Court granted Plaintiff's motion, giving him until May 20, 2008 to respond. (Doc. 21.) By the May 20, 2008 deadline, Plaintiff had failed to respond to the Court's Order To Show Cause, or to seek an additional extension of time, or to serve Defendant with a summons and a copy of the complaint.¹

Although the Court prefers to adjudicate cases on their merits, Plaintiff has engaged in a clear pattern of delay by failing to respond to the Court's Order to Show Cause and by not prosecuting his case in any manner since filing his complaint more than six months ago. Plaintiff's clear pattern of delay warrants dismissal of this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. See *Link v. Wabash R.R.*, 370 U.S. 626, 630-31 (1962); *Jourdan v. Jabe*, 951 F.2d 108,

¹ Today Plaintiff filed a motion to stay the proceedings for an indeterminate period (Doc. 28) due to health considerations and other priorities in his life. The undersigned cannot stay this case for an undeterminable period of time, and Plaintiff's motion does not change the undersigned's Report and Recommendation, because dismissal does not prevent Plaintiff from refiling at a later date.

110 (6th Cir. 1991); *Hobson v. Department of Treasury*, No. 99-1274, 2000 WL 145170 (6th Cir. Feb. 1, 2000).

CONCLUSION

Upon a ***de novo*** review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (doc. no. 29). Plaintiff's Complaint (doc. no. 6) is **DISMISSED WITHOUT PREJUDICE** and this case is **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court